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January 17, 1990



SDMS DocID 2051506

HAND DELIVERY

Mr. Christopher P. Thomas
U.S. Environmental Protection Agency
Region III
Enforcement and Title III
Section (3HW33)
841 Chestnut Building
Philadelphia, PA 19107

Re: Administrative Order III-90-07-DC

Dear Chris:

I am writing on behalf of our client Leonard Goldfine in accordance with the Administrative Order No. III-90-07-DC (the "AO"), issued to Leonard Goldfine, Edmund Zakrocki and E.Z. Chemical Company, the effective date of which is January 12, 1990. In particular, this letter is submitted in accordance with:

(1) paragraph 8.3, which provides that the Respondent contact EPA within two business days of receipt of the AO (or January 17, 1990) to obtain information necessary to complete required work,

(2) paragraph 9.1, which provides that the Respondent designate a Project Coordinator within five days of the effective date of the AO (or January 17, 1990), and

(3) paragraph 19.2, which requires that any conference relating to the AO be held within two days of its receipt (or January 17, 1990).

By this letter, I am requesting the information referred to in paragraph 8.3 and a conference as provided by paragraph 19.2. Since the information referred to in paragraph 8.3 has not yet been provided, and for other reasons set forth below, Leonard Goldfine is not in a position to comply with Paragraph 9.1.

As an initial matter, I must express my shock with regard to the fact that the AO was issued without any indication being given to my client that such an order was being developed or any opportunity being provided to explore the possibility of a

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consent order. The Agency's conduct in this matter flies in the face of ordinary professional courtesy and due process, and is highly prejudicial. Given the extremely short deadlines in the AO, even if prior notice had been given to Mr. Goldfine, compliance with the terms of the AO would have been quite difficult. This is particularly true for an individual such as Leonard Goldfine who (1) is not now and has never been in or associated with any business which involves handling of hazardous materials and (2) is therefore unfamiliar with remedial contractors. In the absence of reasonable notice, it is simply impossible for Mr. Goldfine to designate a Project Coordinator with two business days, or submit a "complete and detailed scope of work" within seven business days of receipt of the AO.

As I have indicated in prior correspondence there are no facts which provide any basis for considering Leonard Goldfine to be a potentially responsible party with respect to the EZ Chemical Site. The AO merely states in a conclusory fashion that Mr. Goldfine was an "owner or operator" of the EZ Chemical Site. The characterization of Mr. Goldfine as having had personal involvement and participation with the site is false and unsupported by any findings of fact in the AO.

Leonard Goldfine's only involvement with the EZ Chemical Site is as the former holder of stock in corporations which previously owned the property and as the property's present mortgage holder. Neither Mr. Goldfine nor the Laurel Street Corporation or 950 Canal Street Corporation have ever had any involvement in or authority with respect to the management of Packaging Terminals, Inc. or EZ Chemicals, Inc.. The fact that Leonard Goldfine was aware of the general nature of the businesses conducted by those entities does not make him an "owner or operator" of the EZ Chemical Site.

The leases between the Laurel Street and 950 Canal Street Corporations as lessors and Packaging Terminals and EZ Chemicals as lessees specifically required that the lessees' businesses be conducted in accordance with law. Mr. Goldfine has no record of having received the summons referred to in paragraph 3.7; in any event, Mr. Goldfine has never taken any actions at the EZ Chemical Site relating to the handling of drums of chemicals. Finally, the financial arrangement referred to in paragraph 3.9 was solely a means whereby Packaging Terminals, Inc. was to satisfy Leonard Goldfine's claim for back rent, for which, as indicated in paragraph 2(a) of the referenced agreement, Packaging Terminals was indebted in the amount of \$44,000.

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Even if Leonard Goldfine were a potentially responsible party with respect to that Site, which is specifically denied, he lacks sufficient funds to perform or pay for the cleanup of the EZ Chemical Site. Although we continue to believe that Mr. Goldfine's financial situation is of no relevance to EPA's inquiry with respect to the EZ Chemical Site, as a means of responding to the AO, and specifically reserving our position with regard to the relevance of the information, we are providing Mr. Goldfine's most recent tax return, which demonstrates his inability to perform or pay for the cleanup of the EZ Chemical Site in the manner required by the AO. Please note that the return is a joint return and therefore reflects income derived from assets held by Beatrice Goldfine.

In addition, please consider this letter to be a request pursuant to the Freedom of Information Act, for all information in the possession of EPA pertaining to potentially responsible parties with respect to the EZ Chemical Site, including specifically all information relating to or indicating (1) generators of materials disposed at the Site, (2) efforts being made to have such generators cleanup any materials they disposed at the EZ Chemical Site, and (3) the alleged liability of Leonard Goldfine in his individual capacity as an "owner or operator" of the site.

Notwithstanding the foregoing, as noted above we feel that a conference in accordance with paragraph 19.2 of the AO would be mutually beneficial. I will contact you later this week to try to arrange a time for such conference.

Very truly yours,



Kermit L. Rader
For MANKO, GOLD & KATCHER

KLR/ds

cc: Leonard Goldfine
Joseph M. Manko
Barbara Brown, Region III, FOIA Coordinator